

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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**FISCAL IMPACT STATEMENT**

**LS 6512**

**BILL NUMBER:** SB 161

**NOTE PREPARED:** Dec 18, 2007

**BILL AMENDED:**

**SUBJECT:** Airline Consumer Advocate.

**FIRST AUTHOR:** Sen. Waltz

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** X **GENERAL**  
**DEDICATED**  
**FEDERAL**

**IMPACT:** State

**Summary of Legislation:** This bill establishes the Office of the Airline Consumer Advocate (Office) in the Attorney General's office. The bill requires the Office beginning January 1, 2009, to: (1) investigate certain alleged or suspected violations or acts by air carriers; (2) assist consumers in resolving disputes with air carriers; (3) identify problems encountered by consumers in dealing with air carriers; (4) report annually to the Legislative Council on the Office's activities; and (5) publicize and staff or monitor as appropriate a toll-free telephone number, a mailing address, and an Internet web site to receive complaints and questions from consumers.

The bill also provides that if the Office determines after an investigation that an air carrier has committed a specified violation or act, the Office shall attempt to reach a settlement with the carrier. This bill provides that the Office may obtain any of the following as part of a settlement agreement: (1) Compensation for affected consumers. (2) The reasonable costs of the Office's investigation. (3) A civil penalty not exceeding \$1,000 for each violation or act.

The bill allows the Attorney General to bring an action to: (1) obtain any remedy the Office would be authorized to obtain under a settlement agreement, if the Office is unable to reach a settlement with an air carrier; or (2) enforce any provision of a settlement agreement between the Office and a carrier.

This bill also establishes the Airline Consumer Advocate Account within the state General Fund to be used for the Office's operations. The bill provides that civil penalties recovered by the Office from air carriers shall be deposited in the Account. This bill continuously appropriates money in the Account to the Office. This bill also requires an air carrier to provide the following whenever passengers have boarded an aircraft and are delayed for more than three hours before takeoff: (1) Electric generation service for lighting and air circulation within

the aircraft. (2) Waste removal service for the aircraft's restrooms. (3) Adequate drinking water, food, and refreshments for passengers. The bill requires an air carrier to provide notice of consumers' rights by posting signs at certain specified areas in each airport in Indiana served by the carrier. This bill allows a consumer to submit a complaint to the Office alleging that an air carrier has committed specified violations or acts.

**Effective Date:** Upon passage.

**Explanation of State Expenditures:** This bill will cause an increase in administrative costs for the Attorney General's (AG) office of between approximately \$235,000 and \$465,000 in FY 2009 and \$930,000 in FY 2010. The AG's office estimates that 12 staff will be needed to establish the Office of the Airline Consumer Advocate (OACA). The estimated costs include increased personnel costs as well as rents for office space needed for the estimated 12 staff people. Although the bill is effective upon passage, the OACA is not required to begin its duties until January 1, 2009. Therefore, the FY 2009 estimate assumes that it will take 3 to 6 months for the number of consumer complaints to rise to a level requiring all 12 additional staff estimated by the AG's office. Since the bill is effective upon passage there could be some additional administrative startup costs incurred at the end of FY 2008 and the first half of FY 2009. Please note that any increase in costs will be offset by any civil penalties collected by the OACA (see *Explanation of State Revenues*).

The exact amount of the impact will ultimately be determined by the level of staffing and other resources required to establish and maintain the OACA that the AG is required to establish under the bill. The bill establishes the Airline Consumer Advocate Account (ACA Account) within the state General Fund. The ACA Account is continuously appropriated to the OACA for administration and enforcement of the provisions in the bill. The increase in expenditures under this bill will be offset by any civil penalties recovered under the bill and required to be deposited in the ACA Account. The ACA Account may also consist of appropriations from the General Assembly or money from any other source.

Any other funds and resources required could be supplied through a variety of sources, including the following: (1) existing staff and resources not currently being used to capacity; (2) existing staff and resources currently being used in another program; (3) authorized, but vacant, staff positions, including those positions that would need to be reclassified; (4) funds that, otherwise, would be reverted; or (5) new appropriations. As of November 26, 2007, the AG has 32 vacant positions valued at \$321,344. The AG did not revert any funds in FY 2007. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions.

**Background:** The following is a summary of the duties required of the OACA as set forth in this bill, beginning January 1, 2009:

- (1) Investigate allegations of air carriers providing unsafe, unjust, discriminatory, or inadequate service.
- (2) Investigate an air carrier's refusal or failure to provide service.
- (3) Investigate allegations of violations of IC 24-10-2-1 (as established in the bill) which requires air carriers to ensure that if takeoff is delayed more than 3 hours after boarding the following things are provided to the passengers: (a) electricity for lighting and air circulation within the plane; (b) waste removal services; and (c) adequate drinking water, food, and other refreshments.
- (4) Investigate allegations of violations of IC 24-10-2-2 (as established in the bill) which requires air carriers to provide notice through signs posted in certain locations of the rights listed in (3)

above.

- (5) Assist consumers in resolving disputes, as well as obtaining settlements for violations.
- (6) Identify problems that consumers routinely encounter with air carriers.
- (7) Prepare an annual report to submit to the Legislative Council.
- (8) Publicize and maintain a toll-free number, mailing address, and web site.

After an investigation and a determination that a violation has occurred, the OACA must attempt to resolve the matter by reaching a settlement with the air carrier. As part of the settlement the OACA may obtain any of the following:

- (1) Compensation for the consumer affected by the violation.
- (2) Reasonable costs of the OACA investigation.
- (3) A civil penalty of up to \$1,000 per passenger affected by the violation.

Furthermore, the AG is authorized under the bill to bring a court action to enforce the penalty or obtain any remedy described in the bill if a settlement is not reached. The AG may also initiate an action to obtain an injunction to enjoin future or continuing violations. The bill allows the AG to recover the costs of the action.

**Explanation of State Revenues:** Depending upon the settlements reached, civil penalties imposed, and court judgments obtained from violations occurring under this bill, there could be an increase in state revenues. It is estimated that any revenues collected would be used to offset the increase in expenditures in establishing the OACA, as described above. The bill requires civil penalties collected by the OACA to be deposited in the ACA Account within the state General Fund. The bill creates the ACA Account and provides that the money in the account is continuously appropriated to the OACA for use in implementing the provisions in the bill.

**Explanation of Local Expenditures:**

**Explanation of Local Revenues:**

**State Agencies Affected:** Attorney General.

**Local Agencies Affected:**

**Information Sources:** Matt Light, Deputy Attorney General, Attorney General's Office; 317-232-4774.

**Fiscal Analyst:** Adam Brown, 317-232-9854.